



**State of West Virginia
Public Employees Insurance Agency (PEIA)**

Pharmacy Benefit Management Repricing Audit
Request for Proposals
August 03, 2007

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CHAPTER 1 – INTRODUCTION

1.1 Problem Statement

With prescription drug costs rising 13 to 16% for the last several years, health plans are under increasing pressure to contain expenditures in this area. Pharmacy benefit management (PBM) firms offer cost containment opportunities through such services as formularies, disease management programs, drug rebates, and utilization review. Health plans must monitor PBM services to ensure that prescription drug claims are processed accurately and appropriately according to benefit design and the terms of the contract.

1.2 Background

The West Virginia Public Employees Insurance Agency (PEIA) provides prescription drug insurance for its employees, non-Medicare eligible retirees and their covered dependents. The covered populations include state employees, county and municipal employees as well as school and university faculty, teachers and other employees.

In 2002, the PEIA negotiated and entered into an individual contractual arrangement with Express Scripts, Inc. (ESI) to provide PBM services.

The PEIA is now seeking proposals to provide auditing of the PBM through periodic readjudication of all retail, mail order and the PBM specialty prescription claims. The PEIA wishes to have these PBM repricing audits performed to confirm that the PBM is processing prescription drug claims accurately and appropriately according to benefit design and the terms of the contract; to identify overpayment; and to detect outliers that may indicate potential fraud, waste and abuse.

1.3 Clarification of Procurement Offering

The PEIA is issuing a Request for Proposals (RFP) for periodic electronic readjudication (repricing) audit(s) of 100% retail, mail order, and the PBM Specialty pharmacy claims for approximately 150,000 members. PBM repricing audit(s) are being requested from *one* bidder for an initial twelve (12) month period with possible annual renewals thereafter.

The contract is scheduled to be awarded no later than October 19, 2007 with the contract to become effective on November 1, 2007. Subcontracting portions of the Bidder's key functions will be permitted by the PEIA as long as the contract is in place at the time of the proposal submission. The winning Bidder will be solely responsible for all subcontractors. Subcontractors have no appeal rights under this RFP.

In addition, the PEIA expects the successful Bidder to identify fully all of its revenue sources, and enter into a cost-plus relationship with the PEIA.

Recognizing the complexities of re-adjudicating a PBM's pharmacy claims, the PEIA intends to work closely with the successful Bidder to assure the best possible results. Therefore, Bidders will be evaluated as to their flexibility, creativity and capacity. The successful Bidder must demonstrate its ability and willingness to work with the PBM.

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Bidders should also note that other State payors (WV Children's Health Insurance Program and AccessWV) may require the services provided under this contract. It is the PEIA's expectation that these payors' covered lives, claims volume and other purchased services will be included in calculating volume-related discounts and cost savings. Further, cost proposals must provide separate pricing for each of these entities. Billing will be sent directly to these agencies not to the PEIA.

The number of covered lives, processed claims and dollars paid for each State payor's most recent complete Plan Year (July 1, 2006 to June 30, 2007) are as follow:

Payor	Estimated Covered Lives	Number of Pharmacy Claims	Pharmacy Claim Dollars Paid
PEIA	154,343	2,333,986	\$124,335,927
PEIA's Medicare-Primary Retirees (Advantra Freedom Plan)	33,550	1,426,567	\$79,252,844
CHIP	25,210	154,498	\$8,451,757
AccessWV	334	8,198	\$395,565

Please refer to the Prescription Drug Benefit section of the PEIA 2007 Summary Plan Description (SPD) for a description of the current pharmacy benefits as well as the SPDs for CHIP, AccessWV and the Advantra-Freedom Program.

The PEIA will select one bidder after evaluating the responses to this RFP. Bidders are expected to examine carefully all documentation, schedules, and requirements stipulated in this RFP and respond to each requirement in the prescribed format. The successful Bidder must provide all staffing, systems, and procedures required to perform the services described herein.

The Contract awarded as a result of this solicitation will be a fixed-fee-plus-performance contingency arrangement. The pricing methodology the Bidder must provide is detailed further in the Cost Proposal.

In addition to the provisions of this RFP, information provided during any finalist's presentations and the successful proposal will be incorporated by reference in the contract. Any additional clauses or provisions required by federal or state law or regulation in effect at the time of execution of the contract will also be included.

The PEIA reserves the right to make a contract award without any further discussion with potential Bidders regarding the proposals received. Therefore, proposals should be submitted initially on the most favorable terms available to the PEIA from a price and technical standpoint. The PEIA reserves the right to conduct discussions with all responsible parties who submit proposals that pass the Mandatory Proposal Requirements described in this RFP. At the PEIA's discretion, the PEIA may also contact some, or all, of the Bidders to request additional information or clarification. All materials submitted by Bidders pursuant to such requests will be considered to be part of their proposals.

1.4 Primary Objectives

The PEIA's primary objectives in undertaking this project are to determine if the PBM processed pharmacy claims accurately and appropriately according to the terms of the contract; to identify inappropriate payments and overpayments for substantiation by the PBM and subsequent recovery by the PEIA; and to identify member or prescriber outliers that may indicate potential fraud, waste or abuse.

In addition, the PEIA wishes to utilize this review to obtain guidance on mitigating prospective issues with the PBM through enhancement of contract stipulations, performance measures, audit procedures, pricing methodology, etc.

1.5 General Information for Applicants

The procurement officer for the PEIA will be:

Mr. J. A. Haught, CPA
Chief Financial Officer
West Virginia Public Employees Insurance Agency
State Capitol Complex, Building 5, Room 1001
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0710
(304) 558-6244, Ext. 242 Fax: 304/558-4969

The above person is the point of contact from the date of release of the RFP, until the selection of the successful Bidder.

1.6 Procurement Schedule (Subject to Change)

ACTIVITY	DATE/TIME
Release of RFP	Friday, August 3, 2007
Mandatory Bidders' Conference	Friday, August 17, 2007 - 10:00 a.m. EDT
Bidders' Written Questions Due	Friday, August 17, 2007 - 4:00 p.m. EDT
PEIA Response to Written Questions	Wednesday, August 22, 2007
Proposal Submission Deadline	Friday, September 21, 2007 - 4:00 p.m. EDT
Proposal Evaluations and Recommendation to Director	September 24 – October 2, 2007
Contract Negotiations with Successful Bidder	October 3 - 12, 2007
Contract Signed	October 16, 2007
Service Effective Date	November 1, 2007

1.7 Written Questions

Bidders may submit, in writing, any questions or clarifications prior to submitting a proposal to the Procurement Officer named above in Section 1.5. Written questions received later than the date and time shown in Section 1.6, shall not be answered. All questions with responses will be provided to all potential bidders who are known by the Procurement Officer on the date and time shown in Section 1.6. The questions can be submitted via fax or email; however, the PEIA assumes no liability for assuring accurate/complete FAX/email transmission/receipt and will not acknowledge receipt except by addressing the question.

1.8 Mandatory Bidders' Conference

Bidders will have the opportunity to ask questions at the Mandatory Bidders' Conference and the PEIA will make a reasonable attempt to answer all questions presented. Answers to questions raised at the Conference will be sent to all potential Bidders who attended the conference. Oral answers will not be binding on the PEIA. Attendance at the Conference is mandatory. The Bidders are responsible for all costs associated with attending the Bidders' Conference.

CHAPTER 2 - PARTICIPATION STANDARDS

2.1 Claims Re-pricing and Systems

2.1.1 Systems

The selected Bidder shall be responsible for periodic electronic re-adjudication of all pharmacy claims processed by the PBM, for all covered recipients, through the prescription benefit. The Bidder must include a full description of its systems environment including technical platform, software, back-up procedures, staffing, overall capacity, and security. The Bidder must accept the eligibility file(s) and biweekly prescription claims data in the formats as provided by the PEIA.

The Bidder must have access to all subcontractors' systems that perform key functions of your organization.

2.1.2 Claims History

The Bidder will be expected to pre-load the eligibility file(s) and thereafter load eligibility updates (additions and terminations) on a biweekly basis. The Bidder will be expected to pre-load the pharmacy claims history, including claims and prior authorizations, for the month preceding the contract effective date. Thereafter, the Bidder will be expected to load future pharmacy claims history, including claims and prior authorizations on a biweekly basis. Describe your experience and capabilities in this regard.

2.1.3 Claims Re-pricing

Initially, the Bidder will be expected to re-adjudicate 100% of the retail, mail order and PBM Specialty pharmacy claims processed by the PBM in the month immediately preceding the contract effective date. Thereafter, the Bidder will be expected to re-adjudicate 100% of the retail, mail

order and PBM Specialty pharmacy claims processed by the PBM during the previous month. Describe your experience and capabilities in this regard.

The Bidder will be expected to determine if prescription claims were paid for non-eligible members and that the correct plan of benefits was assigned for the claim.

The Bidder will be expected to determine if the PBM:

- Adhered to the correct plan of benefits (co-payments, deductibles, exclusions and other limitations);
- Priced claims in accordance with the terms of the proposed pharmacy network arrangement, including dispensing fees, claims processing fees, and discounts off First Data Bank, Medi-Span or other reference source's Average Wholesale Price (AWP), Maximum Allowable Cost (MAC), Usual and Customary (U&C) for the date of service;
- Accurately dispensed mail order or specialty pharmacy prescription drugs according to prescribed dosage, quantity, route, package size, etc
- Provided and effectively administered utilization management tools such as prior authorization and step-therapy;
- Applied Prospective Drug Utilization Review (PRO-DUR) standard edits to prevent inappropriate drug dispensing and/or use;
- Made payment for fraudulent or duplicate claims;
- Processed claims for ineligible claimants or from invalid prescribers.

2.2 Analysis and Reporting

2.2.1 Discussion and Overview

The PEIA has determined that analysis and reporting is critical to effective management of retrospective audit results. The reporting process must be flexible and timely. The Bidder must include samples of reports and recommendations for proper reporting.

The Bidder must provide electronic reports of all audit results, in a file layout acceptable to the PEIA and its PBM, consistent with The National Council for Prescription Drug Programs (NCPDP) specifications. The reports must include a summary explanation of findings and a data dictionary that includes reference to the PBM data used. The reports must be visually appealing and user-friendly. Documentation supporting the audit results must accompany the report submitted to the parties above and should be in electronic format, if possible. A report for each State Payor and a combined Payor report will be required.

The Bidder may be required to send this information to additional vendors at a later time at the request of the PEIA.

2.2.2 Requirements

1. The Bidder's system shall provide, electronically, a complete package (detail and summary) of monthly, quarterly, or yearly audit result reports that shall be mutually agreed upon by the PEIA and the Bidder, to include the total number of audited claims with associated dollars, and the number of discrepant claims with associated dollars by exception category, to include at a minimum:
 - AWP, MAC or U&C pricing discrepancies
 - Co-pay inconsistencies
 - Formulary inconsistencies
 - Retail, mail order and specialty pharmacy discrepancies
 - Step-therapy, prior authorization and quantity limit inconsistencies
 - Zero balance claims
 - Partial fill claims
 - Claims filled with invalid or obsolete NDCs
 - Claims filled with invalid or obsolete DEAs
 - Prescriptions dispensed as written overrides for brand drug substitution
 - Duplicate prescriptions
 - Early prescription refills
 - Benefit Exclusion fills
 - Incorrect dispensing fee

Bidder must also agree to provide all requested ad-hoc reports at no additional charge.

2. The Bidder shall provide the PEIA quarterly, semi annual and annual reviews, including but not limited to, information that shall be useful to identify ongoing cost savings and the PEIA performance.
3. The Bidder shall provide examples of the types of management reports available in its current system.
4. The Bidder shall provide audit results and supportive documentation to the PEIA.
5. The Bidder shall provide claim errors and overpayments to the PBM for validation.
6. The Bidder shall assist the PEIA in the recovery of overpayments and inappropriate payments by actively participating in the steadfast defense of the audit methodology and audit findings; conducting further analysis following PBM response to findings; and by providing additional evidence to support findings.
7. The Bidder shall provide PBM-validated claim errors and overpayments to the PEIA for recovery.
8. The Bidder shall provide any additional recommendations for analysis and reporting.

CHAPTER 3 – COST PROPOSAL

Do NOT include cost or cost savings information in the technical proposal, but only in the price/cost proposal.

3.1 Data Sales

Data sales will be prohibited under the contract between the successful Bidder and the PEIA, unless a specific agreement is made that details:

- Revenue sharing from data sales;
- Data content (i.e., Patient, Prescriber, Pharmacy);
- The customers;
- Time frame and scope;
- Compliance with Federal HIPAA Privacy and Security Rules

3.2 Independent Price Determination

1. By submission of a proposal, the Bidder certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this proposal:
 - a) The prices in the proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to these prices with any other Bidder or with any competitor; and
 - b) Unless otherwise required by law, the prices which have been quoted in the proposal have not been knowingly disclosed by the Bidder and shall not knowingly be disclosed by the Bidder prior to award directly or indirectly to any other Bidder or to any competitor; and
 - c) No attempt has been made or shall be made by the Bidder to induce any other person or firm to submit or not submit a proposal for the purpose of restricting competition.
2. Each person signing the proposal certifies that she/he:
 - a) Is the person in the Bidder's organization responsible within that organization for the decision as to the prices being offered in the proposal and has not participated (and shall not participate) in any action contrary to 1.a., b., and c. above; or
 - b) Is not the person in the Bidder's organization responsible within that organization for the decision as to the prices being offered in the proposal but has been authorized to act as agent for the persons responsible for such decision in certifying that they and such persons have not participated (and shall not participate) in any action contrary to 1.a., b., and c. above.
3. Should a Bidder be awarded a Contract resulting from this RFP, and be found to have failed to abide by the provisions set forth in this Section, said acts shall be in default of the Contract. Consequences may include cancellation of the Contract.

3.3 Configuration of the Price/Cost Proposal

Since the Engagement between the Bidder and the PEIA will be a fixed-fee-plus-contingency arrangement, the Bidder must detail the fixed-fee per re-adjudicated claim and clearly indicate the costs of each of the services that make up this amount. The cost proposal must be detailed using the form in Appendix C.

The Bidder shall propose a performance payment structured on a percentage of **actual dollars recovered** by the PEIA from the PBM for confirmed overpayments or inappropriate pharmacy reimbursements.

The prices and rates quoted shall be effective through the Contract period and shall be placed in writing in the submitted cost proposal.

Requests for renewal price changes must be received in writing at least one hundred twenty (120) days prior to the renewal date, and are subject to approval by the PEIA before becoming effective. Annual price increase must not exceed 5%. In the event new prices are not acceptable, the Contract may be canceled.

It should be noted that price changes in any given fiscal year are contingent upon enactment of legislative appropriations and approval of the PEIA.

CHAPTER 4 - PROCUREMENT PROCESS

The following subsections provide information on the process to be followed for this procurement:

4.1. Legal Basis

The procurement process for this RFP will be conducted in accordance with the procurement policies and procedures established by the PEIA. Pursuant to W. Va. Code §5-16-9(e), the procurement procedures established by the West Virginia Division of Purchasing do not apply to the PEIA nor to this RFP process.

4.2. RFP Issuance and Amendments

Officials within the PEIA have reviewed this RFP. The contents represent the best statement of the requirements and needs of the PEIA. Final approval of the Contract rests with the PEIA once all individual requirements have been met.

4.3. Proposal Submission Requirements

Late submissions shall not be accepted. **Proposals that arrive late will not be accepted and will be returned to the sender unopened.** Delivery of the proposals shall be at the Bidder's expense and all proposals for the PEIA shall be sent to the issuing office. The time of receipt at the designated office is the time-date stamp on the proposal wrapper or other documentation of receipt maintained by the PEIA. The PEIA accepts no responsibility for mislabeled mail. Any and all damage that may occur due to shipping shall be the Bidder's responsibility. Each Technical Proposal and each Cost Proposal shall be enclosed in a separately sealed envelope or package.

The original, five (5) bound copies (three-ring binders are acceptable), one (1) unbound copy, and one electronic copy in a compact disc (CD) format of the Technical Proposal must be submitted under sealed cover and labeled on the outside as follows:

“PEIA Pharmacy Benefit Management Repricing Audit”
“Technical Proposal”

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The original, five (5) bound copies (three-ring binders are acceptable), one (1) unbound copy, and one electronic copy in a CD format (using Microsoft Word and Excel) of the Cost Proposal must be submitted under separate sealed cover and labeled on the outside as follows:

“PEIA Pharmacy Benefit Management Repricing Audit”
“Cost Proposal”

One copy of each proposal shall be signed, in blue ink, by an official authorized to legally bind the Bidder, and shall be marked:

“ORIGINAL”

The Technical Proposal must not contain any mention of the dollar amounts in the Cost Proposal. However, information such as labor hours and categories, materials, subcontracts, and so forth, shall be contained in the Technical Proposal so that the Bidder’s understanding of the scope of the work may be evaluated. The Technical Proposal shall disclose the Bidder’s technical approach in as much detail as possible, including, but not limited to, the information required by the Technical Proposal instructions.

The face of the package containing the original and copies, whether mailed or hand-delivered, shall bear the following legend, “PEIA PROPOSAL – CONFIDENTIAL – OPEN BY ADDRESSEE ONLY.”

The Technical Proposal should be as brief and concise as possible. Section 2 should be as succinct as possible. It is required that this be no more than forty (40) pages, plus any attachments. Responses that are unduly lengthy or verbose will be scored less favorably than those that are brief and concise. Bidders must use 12-point font, and line spacing must be 1.5. Every page of the proposal, except for Section dividers, must be numbered, starting at “1” and continuing sequentially throughout the entire proposal. This requirement applies to exhibits and tables, as well as narratives.

Each proposal part (Technical and Cost) must be bound separately on standard 8 ½” by 11” paper, except that charts and diagrams may be on fold-outs which, when folded, fit into the 8 ½” by 11” format. Figures and tables must be numbered and referenced in the text by that number. Any financial information provided on spreadsheets must be provided in Excel. Gantt charts must be provided where applicable.

The format and content requirements for the Technical and Cost Proposals must adhere to the instructions contained in this section of the RFP. Failure to respond to a specific requirement may be used as a basis for rejection of the proposal from further consideration, or result in a score of “zero” or a “fail” for a particular item. Emphasis should be placed on conformance to the RFP instructions, responsiveness to requirements, and completeness and clarity of content. Elaborate proposals are neither necessary nor desired. If the proposal is presented in a fashion that makes evaluation difficult or overly time consuming, it is likely that points will be lost in the evaluation process. Bidders shall not include any personal use items with the proposal. Bidders must restate the requirement or question prior to their response throughout the proposal.

All proposals must be delivered no later than the date shown in Section 1.6 of this RFP and only to the Procurement Officer at the address shown in Section 1.5 .

4.4. Proposal Withdrawal

Prior to the proposal due date, a Bidder may withdraw their proposal by submitting a written request for its withdrawal signed by the Bidder's authorized agent. The written withdrawal request will be directed to the Procurement Officer at the address listed above.

4.5. Acceptance of Proposals

The PEIA will accept all proposals submitted according to the requirements and deadlines specified in this RFP. Each Bidder may submit only one proposal. The PEIA reserves the right to reject any or all proposals received. It is understood that all proposals, whether rejected or not, will become the property of the PEIA. After receipt of proposals, the PEIA reserves the right to sign a contract, without negotiation, based on the terms, conditions, and premises of this RFP and the proposal of the selected Bidder(s) or to negotiate with a finalist or finalists.

All proposals must be responsive to all requirements in the RFP in order to be considered for Contract award.

After the opening of proposals, the PEIA may ask any Bidder for written clarification of their proposal. In the event this clarification is requested, submission of the clarification shall be considered part of the original proposal.

The PEIA reserves the right to waive any or all minor irregularities in proposals, providing such action is in the best interest of the PEIA. Where the PEIA may waive minor irregularities, such waiver shall in no way modify the RFP requirements or excuse the Bidder from full compliance with RFP specifications and other Contract requirements if the Bidder is awarded the Contract. The PEIA also reserves the right to reject any and all proposals received, or cancel this RFP, according to the best interest of the PEIA.

Proposals must be valid for 180 days following the close date of this RFP. This period may be extended by written mutual agreement between the Bidder and the PEIA.

4.6. Oral Presentations

At the option of the PEIA, oral presentations by selected Bidders may be required. Bidders will be notified if an oral presentation is required. Any cost incidental to an oral presentation shall be borne entirely by the Bidder and the PEIA shall not compensate the Bidder.

The Bidders should present complete, comprehensive proposals without relying on oral presentations, because the PEIA reserves the right to award a contract without further discussions or an oral presentation. The Bidders may be requested to provide demonstrations of their proposed systems as part of their presentations.

Presentations will be recorded and any representations made during the oral presentation will become part of the Bidder's proposal and are binding if a contract is awarded.

4.7. Site Visits

The PEIA may request a site visit to review the Bidder's facilities or its subcontractors' facilities. This may include, but not be limited to, a review of policies and procedures, and any other area of operation that directly or indirectly affects the provisions of the RFP, Contract or the delivery of health care services.

Any cost incidental to the site visit by the Bidder shall be borne by the Bidder. The PEIA will be responsible for its own travel and accommodations.

A readiness review may also be conducted on-site at the selected Bidder's facilities following execution of the Contract and before implementation of the PBM Repricing Audit services.

4.8. Contract Award Notice

The notice of the intended contract award shall be sent by certified mail or overnight mail to all Bidders who submitted a proposal. A contract award is contingent on approval by the PEIA Director.

4.9. Protest of Intended Award

Bidders that have submitted a ligation bond may protest the award in accordance with the following procedure. Protests based on the contract award must be submitted in writing to the Director of the West Virginia PEIA within five (5) working days from the date of this announcement. Protest should be sent to:

Ted Cheatham, Director
West Virginia Public Employees Insurance Agency
Building 5, Room 1001
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-7850
Telephone: (304) 558-6244, ext. 234

Protests may be submitted by FAX at (304) 558-4969.

All protests must contain:

1. The name and address of the protesting proposer.
2. A statement of the grounds of the protest (See *Legal Standard* below).
3. Supporting documentation (if available).
4. The resolution or relief sought.

Failure to submit all of this information shall be grounds for rejection of the protest by the Director of the PEIA.

The PEIA may refuse to review any protests when the matter involved is the subject of litigation before a court of competent jurisdiction; if the merits have previously been decided by a court of

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competent jurisdiction; or if it has been decided in a previous protest by the Director of PEIA. Subcontractors under a proposer's proposal do not have standing to file a protest.

The Director will respond to the protest within five (5) days of receipt of the written notice at the offices of the PEIA.

Proposers in disagreement with the response of the Director may ask for further review of the protest by the Cabinet Secretary of the West Virginia Department of Administration.. The request for further review should be sent to the address below within five (5) days of the Director's response:

**Robert W. Ferguson, Jr., Cabinet Secretary
West Virginia Department of Administration
Building 1, Room E-119
1900 Kanawha Boulevard, East
Charleston, WV 25305**

Appeals may be submitted by FAX at (304) 558-2999.

If the protesting vendor believes that due to the nature of the contract award an expedited determination is required, a request that the matter be directed immediately to the Department of Administration Cabinet Secretary should be in the original protest submitted to the Director of PEIA. If the Director is in agreement with the reasons for the expedited request, the Director will forward the protest to the Department of Administration Cabinet Secretary and inform the requesting proposer of his/her actions.

Decisions by the Department of Administration Cabinet Secretary shall be considered to be the final level of administrative relief. Any further appeal of the administrative decision of the Department of Administration Cabinet Secretary must be directed to the Circuit Court of Kanawha County, Charleston, West Virginia.

Legal Standard

A protesting vendor should be advised, that the legal standard for a successful challenge has been established by the W. Va. Supreme Court as follows:

“A State agency which awards a public contract upon criteria other than price is clothed with a heavy presumption that the contracting agency has properly discharged its duties and exercised discretionary powers in a proper and lawful manner; accordingly, the burden of proof in any action challenging the award of a contract by an unsuccessful bidder or taxpayer is upon the challenger who must show fraud, collusion, or such an abuse of discretion that it is shocking to the conscience.” Syl. Pt.3 State ex rel. E.D.S. Federal Corp. v. Ginsberg, 163 W.Va. 647, 259S.E.2d (1979).

4.10. Restrictions on Communications with State and Other Personnel

From the issue date of this RFP, shown in Section 1.16, until a Bidder is selected and announced, Bidders are prohibited from communicating with any PEIA representatives regarding this procurement, except for the contact listed as the Procurement Officer. This provision is not

intended to restrict existing Bidders from communicating with the PEIA staff regarding ongoing operational matters. **All communications related to this RFP are restricted to written communications except as set forth below.** Bidders may not engage in attempting to influence, or lobbying activity, to influence the selection process via any unauthorized contact with any employee or officer of the PEIA or the state of WV. Violation of this requirement shall disqualify the Bidder from further consideration. Any Bidder, by submitting its proposal, acknowledges that it will refrain from lobbying with, or otherwise contacting any of the above referenced individuals to try to influence the outcome of the selection process.

- The only *exceptions* to these restrictions are: the PEIA staff and/or Bidder staff present at the Bidders' Conference for the purpose of addressing questions; or
- The PEIA personnel involved in Oral Presentations by the Bidder

As described in this RFP, any clarification regarding the RFP will be issued in writing by the PEIA. No statements, clarifications, or opinions regarding this RFP are valid or binding except those issued in writing by the PEIA. **Under no circumstances will questions be entertained except in writing or at the Bidders' Conference.**

4.11. Evaluation Methodology

The purpose of this section is to explain the criteria that will be used in evaluating the proposals. Each proposing entity will be evaluated using these criteria. As stated earlier, each proposing entity must submit the following items to be evaluated:

- Response to the Mandatory Proposal Requirements
- Response to Participation Standards (Technical Proposal)
- Signature Page (to be submitted under separate cover with the technical proposal)
- Cost Proposal (to be submitted sealed under separate cover)
- Signature Page (to be submitted under separate cover with the cost proposal)

4.11.1. Mandatory Proposal Requirements

THESE ARE ABSOLUTE REQUIREMENTS. FAILURE TO MEET ANY ONE OF THE REQUIREMENTS LISTED BELOW SHALL RESULT IN DISQUALIFICATION FROM FURTHER CONSIDERATION IN THIS BID PROCESS.

The Bidder must have at least five (5) years experience, within the past ten (10) years, of operating experience in readjudication audits of PBMs of similar size and scope. All of the following are key statistics that must be met by the Bidder:

- Audited PBMs that administer benefits for clients with more than 200,000 covered lives;
- Processed more than three (3) million drug claims a year;
- Performed a minimum of 3 audits of PBMs of the above parameters; and
- Have previous experience with state managed benefit programs.

Specific requirements are:

Pharmacy Benefit Management Repricing Audit Request for Proposal, Issued by WV PEIA

1. Have five or more years of PBM auditing experience. If an audit firm has acquired or merged with another, that firm's previous experience may count toward this time requirement. If this is the case, describe the relevant history.
2. Minimum Program Requirements. The Bidder must demonstrate, through its proposal, that its program includes the following elements:
 - (a) An operational electronic readjudication process that shall be in compliance with all Federal and State regulations and mandates, as described herein, which include (but are not limited to): eligibility verification; POS edits and drug monitoring; audits; prior authorization; step-therapy; quantity limits; Drug Utilization Review; billing and reimbursement; e-prescribing, and reporting.
 - (b) An automated system that can interface with the PEIA and PBM systems, for eligibility, file and claims transfers.
 - (c) Proposed implementation timeline following execution of a contract.
3. The Bidder must accept the performance standards, corrective actions, Section 5, Contractual Services Terms and Conditions, and liquidated damages identified in this RFP. Performance standards are attached to this RFP.
4. Identify all owners and subsidiaries that own or exert control of more than five (5) percent of the organization. Additionally, provide the names of organizations you own or control more than five (5) percent. Provide this information for sub-contractors as well.
5. The Bidder must identify all subcontractors and the subcontractor's scope of work, as specified, and include all relevant disclosures.
6. The Bidder must meet all other submission requirements.
7. The Bidder must identify all clients that compose more than 10% of their business portfolio and the percentage.
8. The Bidder must provide resumes of all staff that will be involved in the audit with an explanation as to their involvement and their current physical location. This section must also denote whether the staff proposed participated on the previous audits referenced in this proposal.

4.11.2. Technical Proposal

Only proposals meeting the Mandatory Proposal Requirements will have their Technical Proposals reviewed. This review includes:

- Bidder Capability, Qualifications and Experience;
- Qualified Personnel and Location;
- Approach and Methodology for Audit;
- Work Statement Participation Standards; and
- Overall Appropriateness of Response;

4.11.3. Cost Proposal

A description of how Bidders should structure the cost proposal is provided in Appendix C of this RFP. The Cost Proposal must be submitted under separate cover and will be evaluated separately using the form in Appendix C. Vendors wishing to request preference for residency status must complete the Vendor Preference Certificate in Appendix G.

Since there may be no opportunity for Bidders to revise the pricing, the Bidder should carefully calculate and propose its prices for the services requested herein. Notwithstanding this provision, the PEIA reserves the right to discuss with and negotiate with any or all of the Bidders.

4.11.4. Evaluation

A point evaluation system has been designed. A total score of 100 points is possible for the technical and cost proposals combined. The technical proposal will represent 70 points (70%) of the total evaluation score while the cost proposal will represent 30 points (30%). Finalist presentations and site visits may be used to validate the information presented in the proposal. As such, information obtained during oral presentations and/or site visits may be used to adjust the technical scores.

Proposing entities will be selected for the finalist presentation if they obtain a minimum acceptable score for the service(s) they propose. The minimum acceptable score for each technical proposal will be set at 70% (70 points X 70% = **49 points**) of the total technical score.

4.12. Information Required From Bidders

The proposal must be submitted in the format outlined below. There should be no attachments, enclosures, or exhibits other than those considered by the Bidder to be essential to a complete understanding of the proposal submitted. Each section of the proposal should be clearly identified and sequentially numbered with appropriate headings.

4.12.1. Transmittal Letter

A transmittal letter must accompany the proposal, signed in blue ink by an official authorized to bind the Bidder to proposal provisions. The transmittal letter must be placed at the very beginning of the General Technical section. The letter must include a statement that the RFP terms are accepted. Bidders must also include a statement in the letter certifying that the price was arrived at without any conflict of interest.

4.12.2. Format

Applicants must organize the General Technical section of their proposals as follows:

- Transmittal Form (B-1)
- Compliance with Participation Standards
- Other Technical Submission Forms (Forms B-2 to B-5)

4.12.3. Transmittal Form

The Transmittal Form (B-1) should be placed at the very beginning of the General Technical section. It must be signed by an individual duly authorized to make commitments on the applicant's behalf. **Reminder:** *All original signatures must be signed in blue ink.*

4.12.4. Bidder's Organization

The following items must be included in a document titled "Business Organization" and must accompany the transmittal letter.

- The full name and address of the Bidder organization and, if applicable, the branch office or other subordinate element that shall perform, or assist in performing, the work hereunder.
- Indicate whether it operates as an individual, partnership, or corporation; if as a corporation, include the state in which it is incorporated.
- If appropriate, specify whether it is licensed to operate in the state of WV.
- List all subcontractors that perform key functions of your organization (For example, do not provide information for subcontractors that perform menial tasks such as housekeeping, etc.); include firm name and address, contact person, and complete description of work to be subcontracted. Include descriptive information concerning subcontractor's organization, abilities, and commitment to the contract period.
- Provide annual audited financial reports for the past three (3) years for the Bidder and any subcontractor.
- Identify all owners and subsidiaries that own or exert control of more than five (5) percent of the organization. Additionally, provide the names of organizations of which the Bidder owns or controls more than five (5) percent. Provide this information for sub-contractors as well.
- If the Bidder or subcontractor is an affiliate of another organization, submit the financial information for the parent company and describe the relationship.

4.12.5. Location

Indicate the site or sites from which the Bidder will perform the relevant tasks listed in this proposal.

Specifically identify where the following activities will take place:

- Claims re-processing;
- Project/Account Management; and
- Generation of Reports of Audit Results.

4.12.6. Affiliations

Describe all affiliations or ownership relationships (of 5% or more), with potential suppliers of pharmaceuticals or pharmacy services to the PEIA, including:

- Pharmacy services;
- Mail order pharmacy services;
- Drug manufacturing; and
- Drug distribution.

Explain how the Bidder can assure the PEIA that these relationships will not create a conflict of interest with the PEIA.

4.12.7. Relevant Experience

Proposals shall include at least three (3) business references that demonstrate the Bidders' prior experience in areas for which services are being offered. Each reference shall include the contact name, address and telephone number of the client, organization, and the responsible project administrator familiar with the firm's performance. Include a description of the services the Bidder is providing to these clients and the number of covered lives as well the initial date of the business relationship. If the Bidder is presently providing these or similar services for other states, those references should be included. The PEIA reserves the right to request additional references.

Include the same information as above for the 3 largest former clients that have terminated their contracts with your organization since December 31, 2003. Points will be deducted for failure to supply this requested information in its entirety. This information must be provided using forms B-2 and B-3 from Appendix B.

4.12.8. Bidder's Staffing

The Bidder is responsible for providing all resources necessary to develop, implement and operate the System(s) as specified in this RFP. Notwithstanding this general requirement, the PEIA requires that the Bidder commit certain dedicated staff resources that will act as single points-of-contact, as specified below.

The Bidder must provide a dedicated Project/Account Manager who will act as the single point-of-contact representing the Bidder during the development and implementation phase as well as during the on-going relationship of the contracting period. The term 'dedicated' is used to indicate that the Project/Account Team is/are committed full-time to the development and implementation and is/are accessible to the PEIA during work hours during the development and implementation phases.

The Bidder must also identify one individual on the Project/Account Team who will be the primary contact person for day-to-day management of the PEIA repricing audit throughout the life of the contract. This individual must be authorized to commit the resources of the Bidder in matters pertaining to performance of the contract. The Bidder must confirm that this Individuals' primary responsibility will be managing the PEIA repricing audit during the implementation and throughout the life of the contract.

The Bidder must clearly indicate the extent its staff will be dedicated to the PEIA account. Forms B-4 and B-5 from Appendix B must be used to provide this information.

CHAPTER 5 - CONTRACTUAL SERVICES TERMS AND CONDITIONS

5.1 Term of Contract

The duration of the contract is an initial twelve (12) month period, with possible annual renewals thereafter.

5.2 Contract Administrator

Upon approval of a Contract, and following execution of said Contract, the PEIA shall direct the Bidder to administer the Contract on a day-to-day basis during the term of the Contract. However, administration of any Contract resulting from this Request implies no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions, and specifications of such Contract. That authority is retained by the PEIA and other authorized representatives and these appointees are subject to change.

5.3 Cost Liability

The PEIA assumes no responsibility or liability for costs incurred by the successful Bidder prior to the signing of any Contract resulting from this RFP. The PEIA's responsibility and liability is limited to the terms and conditions of any Contract resulting from this RFP.

5.4 Bidder Responsibilities

The Bidder shall be required to assume responsibility for all contractual activities offered in this proposal whether or not that Bidder performs them. Further, the PEIA shall consider the Primary Bidder to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, responses to this RFP should include a list of subcontractors, including firm name and address, contact person, complete description of work to be subcontracted, and descriptive information concerning subcontractor's organizational abilities. The PEIA reserves the right to approve subcontractors for this project and to require the Primary Bidder to replace subcontractors found to be unacceptable. The Bidder is totally responsible for adherence by the subcontractors to all provisions of the Contract.

The Bidder and any subcontractors must commit to the entire contract period stated within this RFP, unless the PEIA specifically agrees to a change of subcontractors. The Agreement between the Bidder and the PEIA will not be assignable to another party without prior written permission from the PEIA. The Bidder shall provide advance notice to the PEIA on any intended sale of the contracting entity. The PEIA will have the option of terminating the Contract with the Bidder upon the sale of the contracting entity.

5.5 Freedom of Information/Disclosure

All documents in this RFP process are subject to West Virginia's Freedom of Information Act (FOIA) and may be disclosed upon request. The Bidder must clearly identify which data are considered proprietary. If the PEIA receives a FOIA request for data, labeled by the Bidder as proprietary, the PEIA will notify the Bidder, in writing, of the request to allow the Bidder time to obtain the appropriate court order to prevent the release of the information. Otherwise, the PEIA will be compelled by state law to release such information.

5.6 HIPAA Compliance

The Bidder must agree to become a business associate of the PEIA, it must have policies and procedures in place consistent with the Health Insurance Portability and Accountability Act of 1996

(HIPAA) standards for privacy and security of protected health information (45 CFR Parts 160 and 164) and any other applicable state or Federal law related to the privacy or security of information. The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the attorney General, and available online at the Purchasing Division's website (<http://www.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement.

5.7 Gratuities or Kickbacks

By submission of a proposal, the Bidder represents that it has not retained any person, agency, or entity to solicit or secure a State contract upon an agreement or understanding for a commission or a percentage, brokerage, or contingent fee. The State will not pay any brokerage fees for securing or executing any of the services outlined in this RFP. Therefore, all proposed fees must be net of commissions and percentage, contingent, brokerage, service, or finder's fees.

5.8 Retainage

The Bidder shall include an affirmative statement in the proposal agreeing to a retainage of five percent (5%) of the total contract amount. Retainage may be made on each payment to the selected Bidder as described in this RFP, if required by any contracting entity.

Should the contract be terminated for any reason related to the Bidder's failure to perform Contract duties to the satisfaction of the PEIA, this retainage shall revert to the PEIA as liquidated damages in addition to the other penalties and/or damages stated in this RFP.

5.9 Appropriations

If the contract extends into more than one fiscal year (July 1 to June 30), and if appropriations are insufficient to support the contract, the PEIA may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority.

5.10 Litigation Bond

Each Bidder responding to this RFP is required to submit a litigation bond in the amount of 5% of submitted bid, made payable to the West Virginia Public Employees Insurance Agency. A surety company licensed to do business in the State of West Virginia with the West Virginia Insurance Commission, on a form acceptable to the State, and countersigned by a West Virginia Resident Agent must issue this bond. The only acceptable alternate forms of the bond are (1) company certified check (not an individual) and (2) a cashier's check.

The purpose of the litigation bond is to discourage unwarranted or frivolous lawsuits pertaining to the award of a contract from this RFP. Secondly, the bond provides a mechanism for the State of West Virginia, the Agency, and its officers, employees, or agents thereof to recover damages, including (but not limited to) attorney fees, loss of revenue, loss of grants or portions thereof, penalties imposed by the federal government and travel expenses which may result from any such litigation. A claim against the bond will be made if the Bidder contests the award in a court of competent jurisdiction and the grounds are found to be unwarranted or frivolous based on the facts of the award or applicable law as determined by the court.

The bond or alternate form must remain in effect for two years from the proposal submission date. After six (6) months, each Bidder may request, and the State anticipates granting, a release of the litigation bond. However, the Bidder will be required to provide a release (signed and notarized in a form that is acceptable to the State) prior to release of the bond which states that the Bidder will not sue.

Failure to submit an appropriate bond or Litigation Waiver Form (Appendix F) with the proposal at the time of bid opening will result in automatic disqualification of the Bidder's proposal and the proposal will be considered non-responsive.

5.11 Performance Bond

A performance Bond must be provided by the selected Bidder before execution of a contract with the PEIA. The bond must be in the amount of one-hundred percent of the first year's total payments under the contract. The bond must provide for the forfeiture of that amount to the PEIA if the successful Bidder does not perform its obligation under the contract. The bond must be in a form acceptable to the PEIA and issued by an insurer licensed by the West Virginia Insurance Commissioner.

5.12 Miscellaneous Provisions

The following provisions will be incorporated into any agreement entered into between the PEIA and the successful bidder. The successful bidder will be asked to sign a form accepting the provisions described below.

5.12.1 Arbitration

Any references to arbitration contained in the agreement are hereby deleted. Claims against the PEIA or the State of West Virginia arising out of the agreement shall be presented to the West Virginia Court of Claims.

5.12.2 Hold Harmless

Any clause requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety. The successful bidder must indemnify and hold harmless the State of West Virginia and the PEIA for its acts or omissions arising out of the contract.

5.12.3 Governing Law

The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.

5.12.4 Taxes

Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor

including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.

5.12.5 Payment

Any references to prepayment are deleted. Payment will be in arrears. As per West Virginia State Law, the PEIA will pay all uncontested invoices within sixty days of receipts at the PEIA offices.

5.12.6 Interest

Should the agreement include a provision for interest on late payments, the Agency agrees to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are deleted.

5.12.7 Recoupment

Any language in the agreement waiving the Agency's right to set-off, counterclaim, recoupment, or other defense is hereby deleted.

5.12.8 Fiscal Year Funding

Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.

5.12.9 Statute of Limitation

Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.

5.12.10 Similar Services

Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.

5.12.11 Attorney Fees

The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.

5.12.12 Assignment

Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.

5.12.13 Limitation of Liability

The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages or limiting the Vendor's liability under a warranty to a certain dollar amount or to the amount of the agreement is hereby deleted. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.

5.12.14 Right to Terminate

Agency shall have the right to terminate the agreement upon Ninety (90) written notice to Vendor.

5.12.15 Termination Charges

Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term. Upon termination of this agreement, or any extension thereto, the Bidder has the duty to continue to provide any reports required by the agreement or any law or regulation.

5.12.16 Renewal

Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.

5.12.17 Insurance

Any provision requiring the Agency to insure equipment or property of any kind and name the Vendor as beneficiary or as an additional insured is hereby deleted.

5.12.18 Right to Notice

Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.

5.12.19 Acceleration

Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.

5.12.20 Amendments

All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties.

Appendix A - Performance Standards and Penalties

The Bidder must agree to abide by the Performance Standards and Penalties specified in the following table.

Service Performance Guarantees	Standard	Penalty
1. Reporting Requirements	Bidder guarantees that monthly audit results will be available for electronic reporting within 5 business days after the end of the audit month.	\$2,000 for any month in which this standard is not met. This guarantee will be measured monthly and reported quarterly. Penalties, if any, will be paid quarterly.
2. Turnaround time on Correspondence	Bidder shall respond to all correspondence from the PEIA and the PBM within an average of five (5) business days.	\$2,000 for any month in which this standard is not met. This guarantee will be measured monthly and reported quarterly. Penalties, if any, will be paid quarterly.

Appendix B – Transmittal Forms

B-1 Transmittal Form

I hereby attest to the following on behalf of _____:

- We have read, understand, and are able and willing to comply with all standards and participation requirements described in the RFP for the programs in which we are applying to participate, as well as in the corresponding contracts;
- All of the information contained in this proposal is accurate and truthful to the best of our knowledge;
- This proposal will be held firm until at least December 31, 2007; and
- Neither we, nor any of our representatives have paid, agreed to pay, or will pay directly or indirectly to any person, firm, or corporation any money or valuable consideration for assistance in procuring or attempting to procure the agreement(s) referred to herein.

Signature

Name (Print)

Title

Date

Applicant point of contact regarding proposal:

Name: _____

Title: _____

Tel: _____

Fax: _____

B-2 – Top Three Clients Form

Instructions to Bidders: Complete the chart, listing your top 3 clients/groups starting with the largest number of covered lives (other than the PEIA). Include current phone number and address for contact persons. Points will be deducted for failure to provide contact information.

	Client/Group	Number of Enrollees	Initial Offer Date	Contact Name	Address	Telephone Number
1						
2						
3						

B-3 – Terminated Contracts Form

Instructions to Bidders: Complete the chart below, listing the 3 largest groups that have terminated their contracts with your plan since December 31, 2003. Include current phone number and address for cooperative contact persons. Points will be deducted for failure to provide contact information.

	Client/Group	Number of Enrollees	Initial Offer Date	Contact Name	Address	Telephone Number
1						
2						
3						

B-4 – Plan Management Form

Instructions to Applicants: Identify the Account Team that will be devoted to the PEIA. Also indicate whether the position is salaried or contracted. Include up-to-date resume for each individual (or a job description for vacant positions) behind this form.

Position	Name	Date of Hire	% FTE PEIA	<i>Check the Appropriate Box</i>	
				Salaried	Contracted
CEO/Executive Director					
CFO					
*Account Manager					
*Audit Manager					
IT Director					
Other: _____					

*** Bidder must provide an Account Manager and Audit Manager**

B-5 – Staffing Form

Instructions to Applicants: Indicate the number of non-clerical, non-secretarial FTEs employed or contracted in each of these areas. Also indicate the number of additional FTEs anticipated for hire/contracting if awarded a contract.

Function	Current FTE Count	Additional to Hire	Total	% of Total to be Devoted to the PEIA
Accounting and Budgeting				
Auditor(s)				
IT				

Appendix C - Cost Proposal

Please note: Claims and pharmacy information will be sent separately from this RFP. Receipt of this information requires attending the Mandatory Bidder's Conference and signing the PEIA Limited Data Use Agreement (Appendix D).

The questions in this section have been carefully crafted in order to ensure an accurate and fair comparison of proposals. The instructions and notes at the beginning of each section detail the PEIA's Cost Proposal requirements for each component of its pharmacy benefit program. Please keep these requirements in mind when constructing your financial proposal. Complete all tables in this section using the provided format. Use footnote references to clearly explain all qualifications or conditions in your response. Financial Proposals that do not use these formats will not be considered.

A. PEIA Cost Proposal Requirements

- a. Indicate your organization's acceptance of the PEIA Cost Proposal requirements by completing the table below.

Proposal Element	PEIA Requirement	Bidder Acceptance (Y/N)
Claim Re-Adjudication	Bidder must propose re-adjudication fees on a per claim basis, unless otherwise indicated. Bidder must include in the per claim re-adjudication fee all of the following: all administrative and clinical fees; loading of eligibility, pharmacy claims data and other files; benefit design (formulary, co-pay, networks, etc.; and PBM programs (quantity level limits; step-therapy; prior authorizations; etc.)	
Performance Fee	Bidder must propose performance fee based on a percentage of actual dollars recovered by the PEIA from the PBM.	
Guarantees	Bidder agrees that all of its performance guarantees shall be reconciled consistent with Appendix A and 5.12.	

B. Fixed Fee

Complete the table below with the proposed fixed fee for the PEIA. All re-adjudication fees pertaining to this proposal must be included in the fixed fee charge. There will be no direct costs billed to the PEIA (i.e., postage costs, such as the cost of stamps or meters, will not be charged to the PEIA).

C. Performance Fee

The proposed performance fee pertaining to this proposal must be included in the table below. Performance fee must be a percentage contingent upon actual dollars recovered by the PEIA from the PBM.

Implementation/Pharmacy Management		Fee	Basis
a.	PEIA PBM Re-Adjudication Design, Development & Implementation (DDI)	\$ _____	Per readjudicated claim
b.	Performance Fee	\$ _____	Percent of actual dollars recovered by the PEIA from the PBM

Appendix D – Limited Data Use Agreement

A limited data set is a set of records containing protected health information (PHI), from which direct identifiers have been removed, but in which certain potentially identifying information remains. The use or disclosure of a limited data set is limited to research, public health, and health care operations purposes only.

Name of data recipient:

Description of data: De-identified the PEIA Paid Prescription Drug Claim Data for its population.

Purpose of use: The PEIA will be disclosing a limited data set to Pharmacy Benefit Managers (PBM) that will be submitting bids in response to this RFP as part of its health care operations. The data will be used by bidding PBMs to prepare the cost estimate portion of its proposal.

By signing this agreement the recipient agrees:

- Not to further use or disclose any of the information, outside the purpose listed above, without prior written permission from the PEIA or as otherwise required by law;
- That any further information requested by Recipient, or its Affiliates, regarding these reports must be made in writing to the PEIA.
- Use appropriate safeguards to prevent use or disclosure of the information other than as provided for by the data use agreement;
- Report to the PEIA any use or disclosure of the information not provided for by its data use agreement, of which it becomes aware;
- Ensure that any agent, including any affiliates, to whom it provides the limited data set agrees to the same restrictions and conditions that apply to the limited data set recipient with respect to such information; and
- Not to identify the information or to contact the individuals to whom the information pertains, if applicable.
- Properly and completely dispose of all data provided by the PEIA upon completion of the project described above in “Purpose of use.”

The PEIA may terminate the agreement if it notifies the recipient of a pattern of activity or practice that constitutes a material breach or violation of the data use agreement, or law, unless the recipient cures the breach or ends the violation within a reasonable time, as determined by the PEIA. The PEIA will take reasonable steps to cure the breach or end the violation and if such steps are unsuccessful the PEIA will discontinue disclosure and report the violation to the appropriate authorities.

Signature of Recipient Representative

Date

Signature of the PEIA Representative

Date

Appendix E - PURCHASING AFFIDAVIT

West Virginia Code §5A-3-10a states: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.

DEFINITIONS:

“Debt” means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers’ compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

“Debtor” means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. “Political subdivision” means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities.

“Related party” means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

EXCEPTION: The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers’ compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

LICENSING: Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State’s Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

CONFIDENTIALITY: The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures and rules. Vendors should visit www.state.wv.us/admin/purchase/privacy for the Notice of Agency Confidentiality Policies. Under penalty of law for false swearing (West Virginia Code, §61-5-3), it is hereby certified that the vendor acknowledges the information in this said affidavit and are in compliance with the requirements as stated.

Vendor's Name:

Authorized Signature: _____ Date: _____

Purchasing Affidavit (Revised 06/15/07)

Appendix F - Bidder's Litigation Waiver Form

_____, hereinafter "Bidder," wishes to submit a Proposal in response to the Request For Proposals for the Pharmacy Benefit Management Services (the RFP) issued on August 6, 2007 by the Public Employees Insurance Agency for the State of West Virginia (PEIA). The Bidder acknowledges that a mandatory requirement of the RFP is that the Bidder submit a litigation bond with its proposal.

In consideration of the waiver of said litigation bond requirement by the PEIA, and in lieu of such bond, the Bidder agrees:

That the Bidder completely waives and foregoes any and all legal right or ability it may now have, or in the future acquire, to initiate any sort of challenge to or against the selection of a Bidder and/or the ultimate award of a contract or contracts pursuant to the RFP. This Waiver is entered voluntarily by a representative authorized to legally bind the Bidder and shall be binding on the Bidder, its successors, assigns, heirs and any others claiming under the legal rights of the Bidder. This Waiver shall apply to any and all types of action, in challenge to or seeking to attack, in any way, the RFP selection process, or the subsequent award of contract(s) to the successful Bidder, including but not limited to, administrative, judicial, or collateral actions.

<i>Legal Name of Bidder</i>

By:		
	<i>Authorized Signature</i>	<i>Date</i>

Title:	
	<i>Title of Authorized Signature</i>

Approved:

Public Employees Insurance Agency for the State of West Virginia

By:		
	<i>Authorized Signature</i>	<i>Date</i>

APPENDIX G - Vendor Preference Certificate

Certification and application* is hereby made for Preference in accordance with West Virginia Code, §5A-3-37.

West Virginia Code, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the *West Virginia Code*. This certificate for application is to be used to request such preference. The PEIA will make the determination of the Resident Vendor Preference, if applicable.

A. Application is made for 2.5% preference for the reason checked:

____ Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification;

or

____ Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification;

or

____ Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification.

B. Application is made for 2.5% preference for the reason checked:

____ Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid;

or

____ Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the

employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid.

Bidder understands if the Secretary of Tax & Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) rescind the contract or purchase order issued; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the PEIA and authorizes the Department of Tax & Revenue to disclose to the PEIA Director appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (West Virginia Code, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

*Check any combination of preference consideration(s) in either "A" or "B", request up to the maximum of 5% preference for both "A" and "B".